

Filed

DEC 20 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CARMEN ROY MALDONADO, JR.,
Petitioner,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS,

Respondent.

No. C 07-6283 JF (PR)

ORDER CORRECTING
ERRONEOUS FILING;
CLOSING CASE;
INSTRUCTIONS TO CLERK

2
H.M.

Petitioner, proceeding pro se, filed the instant habeas petition pursuant to 28 U.S.C. § 2254 on December 12, 2007. Petitioner filed another habeas action with the Court, in case no. C 07-6282 JF (PR), which was filed on the same day, December 12, 2007. It appears that the instant petition was mistakenly received and opened as a new case in the instant action. Accordingly, the Clerk is instructed to copy all documents from the instant case and transfer the documents to Petitioner's earlier filed habeas action in case number C 07-6282 JF (PR).

Because the instant case was opened erroneously, the Clerk shall close the file and terminate any pending motions. The Clerk shall REFUND Petitioner's payment of the \$5.00 filing fee in this action.

1 The Clerk shall forward a copy of this order to the Court's financial office. The Court
2 will review the merits of the petition in a separate order in case number C 07-6282 JF
3 (PR).

4 IT IS SO ORDERED.

5 DATED: 12-18-07


JEREMY FOGEL
United States District Judge

1 A copy of this ruling was mailed to the following:

2 Carmen Roy Maldonado, Jr.
3 P.O. Box 2790
4 Salinas, CA 93902
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JF

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CARMEN ROY MALDONADO J.R.

PO.BOX 2790

SALINAS, C.A 93902

FILED
DEC 12 2007
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARMEN ROY
MALDONADO, J.R.

Plaintiff,

vs.

CALIFORNIA DEPARTMENT OF

CORRECTIONS

Defendant.

CV 07 6283
CASE NO.

JF
(PR)

~~AKA T.G.I~~

APP. TO PROC. IN FORMA

PAUPERIS, Case No. _____

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. WIEKING
CLERK

450 GOLDEN GATE AVENUE
SAN FRANCISCO, CA 94102
(415) 522-2000
FAX (415) 522-2176

December 6, 2007

Carmen Roy Maldonado
P.O. Box 2790
Salinas, CA 93902

Dear Sir/Madam:

We have received your money order #11546702921 in the amount of \$10.00; however, we are returning it for the following reason:

- ☐ We do not accept "not to exceed" checks. Please contact the appropriate court personnel for the exact amount to remit.
- ☒ Your check is issued in the wrong amount. The correct amount should be \$5.00.
- ☐ We are unable to determine the purpose of your payment. Please provide the case number, case name and purpose of your payment.
- ☒ Other: **Submit \$5.00 fee and send letter indicating intake holding petition.**

Once you have provided the above requested information, please return or provide another check in the correct amount to our office.

Sincerely,


Sonya Gueretta
Financial Technician

UNITED STATES DISTRICT
COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA.

EXHIBIT.1 THE MEMORANDUM 1-2.

EXHIBIT.2 THE OLD PETITION OF WRIT WITHOUT THE CASE
NUMBER 1-3.

EXHIBIT.3 THE SAME CASE ON BOTH WRITS WITH ONE CASE
NUMBER THE WRIT THAT IS THE SAME HAS A NEW NUMBER.
1-12.

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2 UNITED STATES DISTRICT
3 COURT FOR THE
4 NORTHERN DISTRICT OF
5 CALIFORNIA.
6

7 PLEASE TAKE NOTE:
8

9 On 3-15-07 In two cases that are still open
10 all these cases will all consolidate with the GRAND JURY
11 INQUIRE.

12 I had sent an MEMORANDUM addressing the
13 courts of limitations of responding to

14 the DEFENDANT In re THE STATE OF CALIFORNIA
15 OF SAN BENITO COUNTY VS, CARMEN ROY MALDONADO J.R.

16 Also there is an open case with the DEPARTMENT OF
17 CORRECTIONS. I have exhausted all lower county state
18 as well the system the is design for C.D.C. inmates
19 or DEFENDANTS ON CRIMINAL OR FEDERAL

20 REFERRALS. Its up to the probait or the
21 appeals department to pick with way they would like
22
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1 UNITED STATES DISTRICT
2 COURT FOR THE
3 NORTHERN DISTRICT OF
4 CALIFORNIA.
5

6 to proceed. I never got respond of what I
7 addressed the court in the MEMORANDUM.
8 I resubmitted the PETITION FOR WRIT OF HABEAS CORPUS
9 under the same case due to an JUDGE FINDINGS
10 ON HIS ODERS. In which I sent the burden of proff
11 the JUDGE also didnt sent the PETITIONER THE
12 proper forms to noticfy the order to the PETITIONER.
13 I did sent the proper forms but I will resubmit
14 the request forms over If your courts would like to
15 contact me for an more information into this case
16 but Iam limited to some questioning but I will provide
17 your courts or INQUIRE OFFICERS WITH OLD DOCUMENTS
18 that I have.

19 I will like to be notifiyd of the old case your
20 department issued.

21 the PETITIONER a new case number.
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UNITED STATES DISTRICT
COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA.

EXHIBIT.2 THE OLD PETITION OF WRIT 1-3

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PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name MALDONADO J.R. CARMEN ROY
 (Last) (First) (Initial)

Prisoner Number T-72346

Institutional Address On parole po. box 2790 Salinas C.A. 93902

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CARMEN ROY MALDONADO J.R.

(Enter the full name of plaintiff in this action.)

vs.

JUDGE STEVEN R. SANDERS THE ACTTING

D.A JOHN J. SANSFIELD

THE DEPUTY COMMISSONER OF THE

DEPT OF CORRECTIONS OF C.D.C

(Enter the full name of respondent(s) or institution in this action.)

Case No. _____
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name MALDONADO J.R. CARMEN ROY
 (Last) (First) (Initial)

Prisoner Number T-72346

Institutional Address On state parole

**ORIGINAL
 FILED**

MAR 15 2007

**RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE**

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CARMEN

ROY MALDONADO J.R.

(Enter the full name of plaintiff in this action.)

vs.

CALIFORNIA DEPARTMENT OF

CORRECTIONS

AKA- I.G.I.

Case No. _____
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

CAND-ECF - Docket Report

E-Filing, HABEAS, ProSe

**U.S. District Court
California Northern District (San Jose)
CIVIL DOCKET FOR CASE #: 5:06-cv-05560-JF
Internal Use Only**

Maldonado v. The Superior Court of San Benito County
Assigned to: Hon. Jeremy Fogel
Cause: 20:1091 Petition for Writ of Habeas Corpus

Date Filed: 09/11/2006
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner
Carmen Roy Maldonado, Jr.

represented by Carmen Roy Maldonado, Jr.
T 72346
460 California Street, Apt #9
Salinas, CA 93906
PRO SE

V.

Defendant

**California Department of
Corrections
AKA-I.G.I.**

Respondent

**The Superior Court of San Benito
County**

Date Filed	#	Docket Text
09/11/2006	1	PETITION for Writ of Habeas Corpus. Filed by Carmen Roy Maldonado, Jr. (gm, COURT STAFF) (Filed on 9/11/2006) (Entered: 09/14/2006)
09/11/2006	2	CLERK'S NOTICE re completion of In Forma Pauperis affidavit or payment of filing fee due within 30 days. (gm, COURT STAFF) (Filed on 9/11/2006) (Entered: 09/14/2006)
09/19/2006	3	MOTION for Leave to Proceed in forma pauperis filed by Carmen Roy Maldonado, Jr. (gm, COURT STAFF) (Filed on 9/19/2006) (Entered: 09/21/2006)
12/05/2006	4	Letter from Carmen Roy Maldonado, Jr.. (gm, COURT STAFF) (Filed on 12/5/2006) (Entered: 12/08/2006)
03/01/2007	5	ORDER OF DISMISSAL WITH LEAVE TO AMEND. Signed by Judge

CAND-ECF - Docket Report

Page 2 of 2

		Jeremy Fogel on 3/1/07. (jfsec, COURT STAFF) (Filed on 3/1/2007) (Entered: 03/01/2007)
03/01/2007	●6	ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERII; GRANTING EXTENSION OF TIME TO FILE IN FORMA PAUPERIS APPLICATION OR PAY FILING FEE WITHIN THIRTY DAYS by Judge Jeremy Fogel denying [3] Motion for Leave to Proceed in forma pauperis (jfsec, COURT STAFF) (Filed on 3/1/2007) (Entered: 03/01/2007)
03/09/2007	●7	MOTION for Leave to Proceed in forma pauperis filed by Carmen Roy Maldonado, Jr. (gm, COURT STAFF) (Filed on 3/9/2007) (Entered: 03/13/2007)
03/09/2007	●8	EXHIBIT the Evidence from Superior Court, County of San Benito Court Case CR05-1515 filed by Carmen Roy Maldonado, Jr. (gm, COURT STAFF) (Filed on 3/9/2007) (Entered: 03/13/2007)
03/15/2007	●9	AMENDED PETITION FOR A WRIT OF HABEAS CORPUS against California Department of Corrections. Filed by Carmen Roy Maldonado, Jr. (gm, COURT STAFF) (Filed on 3/15/2007) (Entered: 03/16/2007)
03/15/2007	●10	EXHIBITS re [9] Amended Complaint filed by Carmen Roy Maldonado, Jr. (Related document(s)[9]) (gm, COURT STAFF) (Filed on 3/15/2007) (Entered: 03/16/2007)
05/11/2007	●11	ORDER RE ELECTRONIC FILING IN CASES WITH UNREPRESENTED PARTIES: Case designated for electronic filing. Effective immediately all represented parties will e-file their submissions to the court. Represented parties will be required to serve paper copies by mail on unrepresented parties. Unrepresented litigants will continue to file and serve all submissions to the court in paper form unless prior leave is obtained from the assigned judge. Signed by Chief Judge Vaughn Walker dated 5/11/07. Copy mailed to counsel of record. (gm, COURT STAFF) (Filed on 5/11/2007) (Entered: 05/18/2007)
05/29/2007	●12	Mail Returned as Undeliverable insufficient addres, unable to forward. Mail sent to Carmen Maldonado re Electronic Filing Order from Judge Walker dated 5/11/2007. (bw, COURT STAFF) (Filed on 5/29/2007) (Entered: 05/31/2007)

1
2 UNITED STATES DISTRICT
3 COURT FOR THE
4 NORTHERN DISTRICT OF
5 CALIFORNIA.

6 EXHIBIT.3 THE SAME WRITS BUT ONE CASE NUMBER AND ITS
7 AN NEW ONE. ALSO THE DATA IN WHICH THE COURTS REQUESTED
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OFFICE OF THE CLERK
NORTHERN DISTRICT OF CALIFORNIA
280 SOUTH FIRST STREET, ROOM 2112
SAN JOSE, CALIFORNIA 95113-3095

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

Carmen Roy Maldonado, Jr.
AT-72346
PO Box 2790
Salinas, CA 93902

93902+2790



UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED

NOV 16 2007

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Dear Sir or Madam:

Your petition has been filed as civil case number 07-5679 JF.

A filing fee of \$5.00 is now due. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's In Forma Pauperis Application in its entirety. If the application is granted, you will not have to prepay the fee.

Your petition is deficient because you did not pay the filing fee and:

1. ____ you did not file an In Forma Pauperis Application.

2. XX the In Forma Pauperis Application you submitted is insufficient because:

____ You did not use the correct form. You must submit this court's current Prisoner's In Forma Pauperis Application.

XX Your In Forma Pauperis Application was not completed in its entirety.

____ You did not sign your In Forma Pauperis Application.

XX You did not submit a Certificate of Funds in Prisoner's Account completed and signed by an authorized officer at the prison.

XX You did not attach a copy of your prisoner trust account statement showing transactions for the last six months.

____ Other _____

Enclosed you will find this court's current Prisoner's In Forma Pauperis Application, which includes a Certificate of Funds in Prisoner's Account form, and a return envelope for your convenience.

Warning: YOU MUST RESPOND TO THIS NOTICE. If you do not respond within **THIRTY DAYS** from the filing date stamped above, your action will be **DISMISSED**, the file closed and the entire filing fee will become due immediately. Filing a Prisoner's In Forma Pauperis Application will allow the court to determine whether prepayment of the filing fee should be waived.

Sincerely,
RICHARD W. WIEKING, Clerk,

By 

Deputy Clerk

1 CARMEN ROY MALDONADO

2 PO.BOX. 2790

3 SALINAS, C.A. 93902

4 In pro-per

5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 CARMEN ROY MALDONADO J.R. }

11 Plaintiff, }

CASE NO. _____

12 vs. THE SUPERIOR COURT OF }

APPLICATION TO PROCEED
IN FORMA PAUPERIS
(Non-prisoner cases only)

13 SAN BENITO COUTY AND C.D.C }

14 ON A CIVIAL AND Defendant. }

15 CRIMINAL APPEAL }

16 I, CARMEN ROY MALDONADO J.R.

17 declare, under penalty of perjury that I am the plaintiff in

18 the above entitled case and that the information I offer throughout this application is true and correct. I

19 offer this application in support of my request to proceed without being required to prepay the full

20 amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs

21 of this action or give security, and that I believe that I am entitled to relief.

22 In support of this application, I provide the following information:

23 1. Are you presently employed? Yes ____ No X

24 If your answer is "yes," state both your gross and net salary or wages per month, and give the name and
25 address of your employer:

26 Gross: _____ Net: _____

27 Employer: _____

28 If the answer is "no," state the date of last employment and the amount of the gross and net salary and
APP. TO PROC. IN FORMA

PAUPERIS, Case No. _____

1 wages per month which you received.

2 _____
 3 _____
 4 _____

5 2. Have you received, within the past twelve (12) months, any money from any of the following
 6 sources:

7 a. Business, Profession or Yes ____ No X
 8 self employment

9 b. Income from stocks, bonds, Yes ____ No X
 10 or royalties?

11 c. Rent payments? Yes ____ No X

12 d. Pensions, annuities, or Yes ____ No X
 13 life insurance payments?

14 e. Federal or State welfare payments, Yes ____ No X
 15 Social Security or other govern-
 16 ment source?

17 If the answer is "yes" to any of the above, describe each source of money and state the amount
 18 received from each.

19 _____
 20 _____

21 3. Are you married? Yes ____ No X

22 Spouse's Full Name: _____

23 Spouse's Place of Employment: _____

24 Spouse's Monthly Salary, Wages or Income:

25 Gross \$ _____ Net \$ _____

26 4. a. List amount you contribute to your spouse's support: \$ _____

27 b. List the persons other than your spouse who are dependent upon you for support and
 28 indicate how much you contribute toward their support. (NOTE: For minor children,

APP. TO PROC. IN FORMA

PAUPERIS, Case No. _____

list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

5. Do you own or are you buying a home? Yes ___ No X

Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

6. Do you own an automobile? Yes ___ No X

Make _____ Year _____ Model _____

Is it financed? Yes ___ No ___ If so, Total due: \$ _____

Monthly Payment: \$ _____

7. Do you have a bank account? Yes ___ No X (Do not include account numbers.)

Name(s) and address(es) of bank: _____

Present balance(s): \$ _____

Do you own any cash? Yes ___ No ___ Amount: \$ _____

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes ___ No X

8. What are your monthly expenses?

Rent: \$ 150.00 Utilities: \$ 150.00

Food: \$ 100.00 Clothing: \$ 50.00

Charge Accounts: 0.

Name of Account	Monthly Payment	Total Owed on This Account
0.	\$ 0.	\$ 0.
	\$	\$
	\$	\$

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.)

APP. TO PROC. IN FORMA

PAUPERIS, Case No. _____

10. Does the complaint which you are seeking to file raise claims that have been presented in other lawsuits? Yes x No

Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which they were filed. UNITED STATES DISTRICT COURT FOR

CALIFORNIA. CARMEN ROY MALDONADO J.R. VS THE DEPT OF

CORRECTIONS OF CALIFORNIA AKA C.D.C. I.G.I c-06-5561

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

DATE

SIGNATURE OF APPLICANT

APP. TO PROC. IN FORMA

PAUPERIS, Case No. _____

Case Number: _____

CERTIFICATE OF FUNDS

IN

PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of _____ for the last six months at _____ where (s)he is confined.

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ _____ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ _____.

Dated: _____

[Authorized officer of the institution]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**INSTRUCTIONS FOR FILING A PETITION FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY UNDER 28 U.S.C. §§ 2254**

I. Scope of 28 U.S.C. §§ 2254

You may file a petition for a writ of habeas corpus under 28 U.S.C. §§ 2254 if you are in custody pursuant to the judgment of a state court in violation of the federal Constitution or federal laws. You may challenge either the fact or duration of your state sentence; however, any challenge to violations of the federal Constitution or federal law that affects the conditions, as opposed to the fact or duration, of your confinement should be brought in a civil rights complaint under 42 U.S.C. §§ 1983. If you want to file a civil rights complaint under 42 U.S.C. §§ 1983, you may do so on forms provided by the clerk of the court.

Note that a petition for a writ of habeas corpus under 28 U.S.C. §§ 2254 will not be granted unless it appears that you have exhausted the remedies available in state court.

II. Filing a Petition

To start a habeas action, you must send the court the following items: (1) an original petition and (2) a check or money order for \$5.00 or an original Prisoner's Application to Proceed In Forma Pauperis. In addition to these instructions, this packet includes a petition for a writ of habeas corpus form and an Application to Proceed In Forma Pauperis. You must use the forms provided with this packet and not any other version. You should keep a copy of the petition and in forma pauperis application for your own records.

When you have completed the forms, mail the originals to Clerk of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102.

NOTE: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).

III. Filing Fees

In order for the petition to be filed, it must be accompanied by the filing fee of \$5.00. If you are unable to pay the filing fee, you may petition the court to proceed in forma pauperis. A Prisoner's Application to Proceed In Forma Pauperis form for this purpose is included in this packet. You must complete the application, sign it and declare under penalty of perjury that the facts stated therein are correct. File the application with your petition and keep a copy for your records.

IV. Petition Form

Your petition must be legibly handwritten or typewritten, and you must sign it and declare under penalty of perjury that the facts stated in it are correct. Read the entire petition form before answering any questions. You will note that brief explanatory comments appear throughout the form. Read these carefully before you answer the questions because they are intended to help you fill out the petition as well as ensure that you file your petition in the proper court.

1 Complete all applicable questions in the proper blank spaces. If you need additional space to
2 answer a question, you may attach additional blank pages. Make clear the question to which any such
continued answer refers.

3 Only one sentence or conviction may be challenged in a single petition. If you challenge more
4 than one, you must do so by separate petitions.

5 **V. After Petition Is Filed**

6 You will be notified as soon as the court issues an order. It is your responsibility to keep the
7 court informed of any changes of address to ensure that you receive court orders. Failure to do so may
result in dismissal of your suit.

8 **VI. Inquiries And Copying Requests**

9 Because of the large volume of cases filed by inmates in this court and limited court resources,
10 the court will not answer inquiries concerning the status of your case or provide copies of documents,
except at a charge of fifty cents (\$0.50) per page. You must therefore keep copies of all documents
submitted to the court for your own records.

ALICATE

Court Name: U.S. District Court, MDCA
Division: 3
Receipt Number: 34611813478
Cashier ID: bucklen
Transaction Date: 12/12/2007
Payer Name: carmen r maldonado

WRIT OF HABEAS CORPUS
For: carmen r maldonado
Amount: \$5.00

MONEY ORDER
Check/Money Order Num: 11547657652
Amt Tendered: \$5.00

Total Due: \$5.00
Total Tendered: \$5.00
Change Amt: \$0.00

c07-6283jf

Checks and drafts are accepted
subject to collections and full
credit will only be given when the
check or draft has been accepted by
the financial institution on which
it was drawn.